

in compliance with the applicable standard at the end of the shift.

**§ 71.206 Quarterly sampling; designated work positions.**

(a) Each operator shall take one valid representative sample from the DWP during each quarterly period. The quarterly periods are:

January 1–March 31  
April 1–June 30  
July 1–September 30  
October 1–December 31.

(b) When the respirable dust standard is changed in accordance with § 71.101, the new applicable standard shall become effective 7 calendar days after the date of the notification of the change by MSHA.

(c) Designated work position samples shall be collected at locations to measure respirable dust generation sources in the active workings. The specific work positions at each mine where DWP samples shall be collected include:

(1) Each highwall drill operator (MSHA occupation code 384);

(2) Bulldozer operators (MSHA occupation code 368); and

(3) Other work positions designated by the District Manager for sampling in accordance with § 71.206(m).

(d) Operators with multiple work positions specified in paragraph (c)(2) and (c)(3) of this section shall sample the DWP exposed to the greatest respirable dust concentration in each work position performing the same activity or task at the same location at the mine and exposed to the same dust generation source. Each operator shall provide the District Manager with a list identifying the specific work positions where DWP samples will be collected for:

(1) Active mines—by October 1, 2014.

(2) New mines—Within 30 calendar days of mine opening.

(3) DWPs with a change in operational status that increases or reduces the number of active DWPs—within 7 calendar days of the change in status.

(e) Each DWP sample shall be taken on a normal work shift. If a normal work shift is not achieved, the respirable dust sample shall be transmitted to MSHA with a notation by the person certified in sampling on the back of the dust data card stating that

the sample was not taken on a normal work shift. When a normal work shift is not achieved, the sample for that shift may be voided by MSHA. However, any sample, regardless of whether a normal work shift was achieved, that exceeds the applicable standard by at least 0.1 mg/m<sup>3</sup> shall be used in the determination of the equivalent concentration for that occupation.

(f) Unless otherwise directed by the District Manager, DWP samples shall be taken by placing the sampling device as follows:

(1) *Equipment operator*: On the equipment operator or on the equipment within 36 inches of the operator's normal working position.

(2) *Non-equipment operators*: On the miner assigned to the DWP or at a location that represents the maximum concentration of dust to which the miner is exposed.

(g) Upon notification from MSHA that any valid representative sample taken from a DWP to meet the requirements of paragraph (a) of this section exceeds the applicable standard, the operator shall, within 15 calendar days of notification, sample that DWP each normal work shift until five valid representative samples are taken. The operator shall begin sampling on the first normal work shift following receipt of notification.

(h) When a valid representative sample taken in accordance with this section meets or exceeds the excessive concentration value (ECV) in Table 71-1 that corresponds to the applicable standard and particular sampling device used, the operator shall:

(1) Make approved respiratory equipment available to affected miners in accordance with § 72.700 of this chapter;

(2) Immediately take corrective action to lower the concentration of respirable coal mine dust to at or below the applicable standard; and

(3) Make a record of the corrective actions taken. The record shall be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record shall be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure

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and not susceptible to alteration. Such records shall be retained at a surface location at the mine for at least 1 year and shall be made available for inspection by authorized representatives of the Secretary and the representative of miners.

(i) Noncompliance with the applicable standard is demonstrated during the sampling period when:

(1) Two or more valid representative samples meet or exceed the ECV in Table 71–1 that corresponds to the applicable standard and the particular sampling device used; or

(2) The average for all valid representative samples meets or exceeds the ECV in Table 71–2 that corresponds to the applicable standard and the particular sampling device used.

(j) Unless otherwise directed by the District Manager, upon issuance of a citation for a violation of the applicable standard, paragraph (a) of this section shall not apply to that DWP until the violation is abated and the citation is terminated in accordance with paragraphs (k) and (l) of this section.

(k) Upon issuance of a citation for violation of the applicable standard, the operator shall take the following actions sequentially:

(1) Make approved respiratory equipment available to affected miners in accordance with § 72.700 of this chapter;

(2) Immediately take corrective action to lower the concentration of respirable coal mine dust to at or below the applicable standard; and

(3) Make a record of the corrective actions taken. The record shall be certified by the mine foreman or equivalent mine official, no later than the end of the mine foreman's or equivalent official's next regularly scheduled working shift. The record shall be made in a secure book that is not susceptible to alteration or electronically in a computer system so as to be secure and not susceptible to alteration. Such records shall be retained at a surface location at the mine for at least 1 year and shall be made available for inspection by authorized representatives of the Secretary and the representative of miners.

(4) Begin sampling, within 8 calendar days after the date the citation is issued, the environment of the affected

DWP on consecutive normal work shifts until five valid representative samples are taken.

(l) A citation for violation of the applicable standard shall be terminated by MSHA when the equivalent concentration of each of the five valid representative samples is at or below the applicable standard.

TABLE 71–1—EXCESSIVE CONCENTRATION VALUES (ECV) BASED ON SINGLE, FULL-SHIFT CMDPSU/CPDM CONCENTRATION MEASUREMENTS

Applicable standard (mg/m <sup>3</sup> )	ECV (mg/m <sup>3</sup> )	
	CMDPSU	CPDM
2.0 .....	2.33	2.26
1.9 .....	2.22	2.15
1.8 .....	2.12	2.04
1.7 .....	2.01	1.92
1.6 .....	1.90	1.81
1.5 .....	1.79	1.70
1.4 .....	1.69	1.58
1.3 .....	1.59	1.47
1.2 .....	1.47	1.36
1.1 .....	1.37	1.25
1.0 .....	1.26	1.13
0.9 .....	1.16	1.02
0.8 .....	1.05	0.91
0.7 .....	0.95	0.79
0.6 .....	0.85	0.68
0.5 .....	0.74	0.57
0.4 .....	0.65	0.46
0.3 .....	0.54	0.34
0.2 .....	0.44	0.23

TABLE 71–2—EXCESSIVE CONCENTRATION VALUES (ECV) BASED ON THE AVERAGE OF 5 FULL-SHIFT CMDPSU/CPDM CONCENTRATION MEASUREMENTS

Applicable standard (mg/m <sup>3</sup> )	ECV (mg/m <sup>3</sup> )	
	CMDPSU	CPDM
2.0 .....	2.15	2.12
1.9 .....	2.05	2.01
1.8 .....	1.94	1.91
1.7 .....	1.84	1.80
1.6 .....	1.74	1.70
1.5 .....	1.63	1.59
1.4 .....	1.53	1.49
1.3 .....	1.43	1.38
1.2 .....	1.33	1.27
1.1 .....	1.22	1.17
1.0 .....	1.12	1.06
0.9 .....	1.02	0.96
0.8 .....	0.92	0.85
0.7 .....	0.81	0.75
0.6 .....	0.71	0.64
0.5 .....	0.61	0.53
0.4 .....	0.51	0.43
0.3 .....	0.41	0.32
0.2 .....	0.31	0.22

(m) The District Manager may designate for sampling under this section additional work positions at a surface coal mine and at a surface work area of an underground coal mine where a concentration of respirable dust exceeding 50 percent of the standard in effect at the time the sample is taken, or a concentration of respirable dust exceeding 50 percent of the standard established in accordance with § 71.101, has been measured by one or more MSHA valid representative samples.

(n) The District Manager may withdraw from sampling any DWP designated for sampling under paragraph (m) of this section upon finding that the operator is able to maintain continuing compliance with the applicable standard. This finding shall be based on the results of MSHA and operator valid representative samples taken during at least a 12-month period.

**§ 71.207 Respirable dust samples; transmission by operator.**

(a) If using a CMDPSU, the operator shall transmit within 24 hours after the end of the sampling shift all samples collected to fulfill the requirements of this part, including control filters, in containers provided by the manufacturer of the filter cassette to: Respirable Dust Processing Laboratory, Pittsburgh Safety and Health Technology Center, Cochran's Mill Road, Building 38, P.O. Box 18179, Pittsburgh, Pennsylvania 15236-0179, or to any other address designated by the District Manager.

(b) The operator shall not open or tamper with the seal of any filter cassette or alter the weight of any filter cassette before or after it is used to fulfill the requirements of this part.

(c) A person certified in sampling shall properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card shall have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card shall be signed by the certified person who actually performed the required examinations under 71.205(b) of this part during the sampling shift and shall include that person's MSHA Individual Identification Number (MIIN).

Respirable dust samples with data cards not properly completed may be voided by MSHA.

(d) All respirable dust samples collected by the operator shall be considered taken to fulfill the sampling requirements of part 70, 71, or 90 of this title, unless the sample has been identified in writing by the operator to the District Manager, prior to the intended sampling shift, as a sample to be used for purposes other than required by part 70, 71, or 90 of this title.

(e) Respirable dust samples received by MSHA in excess of those required by this part shall be considered invalid samples.

(f) If using a CPDM, the person certified in sampling shall (1) validate, certify, and transmit electronically to MSHA within 24 hours after the end of each sampling shift all sample data file information collected and stored in the CPDM, including the sampling status conditions encountered when sampling each DWP; and (2) not tamper with the CPDM or its components in any way before, during, or after it is used to fulfill the requirements of this part, or alter any sample data files. All CPDM data files transmitted electronically to MSHA shall be maintained by the operator for at least 12 months.

**§ 71.208 Respirable dust samples; report to operator; posting.**

(a) MSHA shall provide the operator, as soon as practicable, a report with the following data on respirable dust samples submitted or whose results were transmitted electronically, if using a CPDM, in accordance with this part:

- (1) The mine identification number;
- (2) The DWP at the mine from which the samples were taken;
- (3) The concentration of respirable dust, expressed as an equivalent concentration for each valid sample;
- (4) The average equivalent concentration of respirable dust for all valid samples;
- (5) The occupation code; and
- (6) The reason for voiding any sample.

(b) Upon receipt, the operator shall post this data for at least 31 days on the mine bulletin board.